

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

LOWELL QUINCY GREEN, #518622	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 6:23-cv-036-JDK-JDL
	§	
WARDEN UNKNOWN COOPER, et al.	§	
	§	
Defendants.	§	

**ORDER ADOPTING THE REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Lowell Quincy Green, an inmate of the Texas Department of Criminal Justice (TDCJ) proceeding pro se, filed this lawsuit alleging violations of his constitutional rights in prison without paying the filing fee. The case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On January 23, 2023, the Magistrate Judge issued a Report and Recommendation that the Court bar Plaintiff from proceeding without payment pursuant to 28 U.S.C. § 1915(g) and dismiss this case, subject to reopening if Plaintiff paid the filing fee within fifteen days of dismissal. Docket No. 2. A copy of this Report was sent to Plaintiff, who has submitted two documents the Court deems to be his written objections. Docket Nos. 3, 5.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire

record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

A party objecting to a Magistrate Judge’s Report must specifically identify those findings to which he objects. Frivolous, conclusory, or general objections need not be considered by the District Judge. *See Nettles v. Wainright*, 677 F.2d 404, 410 & n.8 (5th Cir. 1982) (en banc). Furthermore, objections that simply rehash or mirror the underlying claims addressed in the Report are not sufficient to entitle the party to *de novo* review. *See U.S. v. Morales*, 947 F.Supp.2d 166, 171 (D.P.R. 2013) (“Even though timely objections to a report and recommendation entitle the objecting party to *de novo* review of the findings, ‘the district court should be spared the chore of traversing ground already plowed by the Magistrate.’”) (internal citations omitted); *see also Vega v. Artuz*, 2002 WL 31174466 \*1 (S.D. NY Sep. 2002) (unpublished) (“However, objections that are merely perfunctory responses argued in an attempt to engage the district court in a rehashing of the same arguments set forth in the original petition will not suffice to invoke *de novo* review of the magistrate judge’s recommendations.”).


The Magistrate Judge found that Plaintiff’s complaint did not allege facts establishing an imminent danger of serious physical injury as required for Plaintiff to proceed as a pauper in light of his multiple prior suits and appeals that were dismissed as frivolous or for failure to state a claim. Docket No. 2 (citing 28 U.S.C.

§ 1915(g)). Plaintiff's objections are rambling and incoherent discussions of his underlying claims of false imprisonment and invalid conviction, including unsubstantiated accusations unethical conduct by the Magistrate Judge. They do not dispute or even address the application of Section 1915(g) to this case, which is the basis for the recommended dismissal.

The Court has conducted a careful de novo review of the record and the Magistrate Judge's proposed findings and recommendations. *See* 28 U.S.C. § 636(b)(1) (District Judge shall "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). Upon such de novo review, the Court has determined that the Report of the United States Magistrate Judge is correct, and Plaintiff's objections are without merit. Accordingly, it is

**ORDERED** that the Report and Recommendation of the United States Magistrate Judge (Docket No. 2) is **ADOPTED** as the opinion of the Court. Plaintiff's objections (Docket Nos. 3, 5) are **OVERRULED**. This case is **DISMISSED** with prejudice for purposes of proceeding as a pauper under 28 U.S.C. § 1915(g), but without prejudice as to reopening upon full payment of the filing fee within fifteen days of judgment or the refiling of the lawsuit with pre-payment of the full filing fee. Any pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **6th** day of **March, 2023**.

  
JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE